

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	
	)	Examiner: Unassigned
Gower Smith, et al.	)	
	)	Group Art Unit: Unassigned
Application No. 09/763,392	)	
	)	Docket: GRIFH 52699
International Application No.	)	
PCT/AU99/00684	)	
	)	
International Filing Date: 20 August 1999	)	
	)	
For: GOODS/SERVICES REQUISITION	)	
AND SUPPLY SYSTEM	)	

DECLARATION OF DAVID G. PARKHURST IN SUPPORT OF PETITION  
FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTORS

I, DAVID G. PARKHURST, hereby declare and state as follows:

1. I am a partner in the law firm of Fulwider Patton Lee & Utecht, LLP,  
located at Howard Hughes Center, 6060 Center Drive, Tenth Floor, Los Angeles,  
California 90045.

2. To the best of my knowledge and belief, the last known mailing  
addresses of MATTHEW REARDON are as follows:

Street address: c/o Energetics Pty Ltd & EnVINTA Corporation

Application No. 09/763,392

144 Pacific Hwy  
North Sydney, NSW 2060  
Australia

Post Office Address: c/o Energetics Pty Ltd & EnVINTA Corporation  
P.O. Box 294 North Sydney, NSW 2060  
Australia

3. On September 10, 2001, I personally mailed a letter with a copy of the above noted application, a Declaration and Power of Attorney and an Assignment prepared for Matthew Reardon's signature, by registered mail, return receipt requested, to the above stated last known street address of Matthew Reardon, and a copy of this letter is attached.

4. On September 10, 2001, I personally mailed a letter with a copy of the above noted application, a Declaration and Power of Attorney and an Assignment prepared for Matthew Reardon's signature, by Federal Express to the above stated last known post office address of Matthew Reardon, and a copy of this letter is attached.

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5. On September 17, 2001, I received an email forwarded by Stephen Foster from Matthew Reardon dated September 16, 2001, acknowledging receipt of this letter and enclosures, and a copy of this email is attached.

6. On September 19, 2001, I received a letter by facsimile from Matt Reardon advising that he received my letter to him of September 10, 2001, and that he is not prepared to provide his power of attorney for the subject application. A copy of his letter of September 19, 2001 is attached.

I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false

Application No. 09/763,392

statements and the like so made are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: September 19, 2001

By: David G. Parkhurst  
David G. Parkhurst

Enclosures:

- 1) Copy of letter of September 10, 2001 to street address of Matthew Reardon
- 2) Copy of letter of September 10, 2001 to post office address of Matthew Reardon
- 3) Copy of email forwarded by Stephen Foster from Matthew Reardon dated September 16, 2001
- 4) Copy of letter of September 19, 2001 from Matt Reardon

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For: GOODS/SERVICES REQUISITION	)	
AND SUPPLY SYSTEM	)	

DECLARATION OF STEPHEN FOSTER IN SUPPORT OF PETITION  
FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTOR

I, STEPHEN FOSTER, hereby declare and state as follows:

1. I am currently Chief Executive Officer of Imaging Technologies Pty Limited, Zoom Systems, having an address at 3175 17<sup>th</sup> Street, San Francisco, California 94110, one of the assignees of the above noted application and International Application No. PCT/AU99/00684.

2. On the morning of September 7, 2001, I spoke to Matthew Reardon by

Application No. 09/763,392

telephone, and Mr. Reardon said that he had not been paid money he felt was owed to him by Zoom Systems, that he was unhappy about the way that he had been treated by Zoom Systems, and that he would not sign the application papers for the subject application.

3. Following my conversation with Matthew Reardon, on September 7, 2001, I sent an email to Matthew Reardon, a copy of which is attached, urging him to sign the Declaration and Power of Attorney for the subject application.

4. In reply to my email to him, on September 7, 2001, I received an email from Matthew Reardon, a copy of which is attached, refusing to sign the Declaration and Power of Attorney for the above noted application.

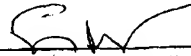
I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements

Application No. 09/763,392

may jeopardize the validity of the application or any patent issuing thereon.

Dated: 9-15-01

By: \_\_\_\_\_



STEPHEN FOSTER

09/17/2001 14:16 FAX 415 788 1404

ZOOM SYSTEMS

002

**St v F ster**

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**From:** Matt Reardon [ReardonM@energetics.com.au]  
**Sent:** Thursday, September 06, 2001 10:44 AM  
**To:** 'Stephen Foster'  
**Subject:** RE: COn tact Details

Steve

My understanding is that if I don't sign, the patent will have to be resubmitted, and in that event the priority of filing date is lost and this is often the most valuable aspect to a patent filing.

I am still able to legally pursue separately my claim for my unpaid invoice - as I mentioned on the phone, I have formally requested this be paid on numerous occasions and expect that it would be noted as a contingent liability in your annual accounts. My view is that now is the best time to resolve this issue, and whilst I may lose some leverage if the patent filing date is lost, the potential loss to Zoom is worse than the \$20k that I am owed, and I can still pursue my \$20k anyway.

Sincerely

Matt Reardon  
Chief Financial Officer  
Energetics Pty Ltd & EnVINTA Corporation (USA)  
Ph: +61 2 9929 3911  
Fax: +61 2 9929 3922  
Visit: [www.energetics.com.au](http://www.energetics.com.au) <<http://www.energetics.com.au>>  
[www.envinta.com](http://www.envinta.com) <<http://www.envinta.com>>

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-----Original Message-----

**From:** Stephen Foster [SMTP:steve.foster@sfo.zoomsystems.com]  
**Sent:** Friday, September 07, 2001 3:13  
**To:** Matt Reardon  
**Subject:** RE: COn tact Details

Matt,

Thanks for taking the time today. I am sorry you feel ill-treated by Zoom in the past.

Just for clarification, I have copied information from Tim Staley regarding the request for signature. Again, we are not asking for assignment (which is where you maintain your leverage). Here's what Tim says:

To enable the application to go forward, all that is required is Matt's signature on the Declaration and Power of Attorney. By doing this, Matt allows the application to go forward but does not necessarily lose any



09/17/2001 14:16 FAX 415 788 1404

ZOOM SYSTEMS

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rights that he may claim in ownership of the invention. He would do this if he signed the "assignment" document. The assignment document does not need to be executed, however, to enable the application to go forward. If Matt doesn't execute the Declaration and Power of Attorney, the application will lapse and he will have no rights anyway. If he does sign the Declaration, but not the assignment, at least the application will go forward and Matt will be in a position to pursue any claim he may have to the ownership of the application.

So, it seems to me, you lose all leverage by not signing.

I hope you reconsider, but you must do so in the next day or so or our ability to get the application through will lapse.

Hope to hear from you.

Regards,

Steve Foster  
CEO  
Zoom Systems  
415-252-2604

-----Original Message-----

From: Matt Reardon [mailto:ReardonM@energetics.com.au]  
Sent: Thursday, September 06, 2001 9:45 AM  
To: 'steve.foster@zoomsystems.com'  
Subject: COn tact Details

Dear Steve

This is email address. Office numbers are below, and cell phone is +61 404 237 238.

Sincerely

Matt Reardon  
Chief Financial Officer  
Energetics Pty Ltd & EnVINTA Corporation (USA)  
Ph: +61 2 9929 3911  
Fax: +61 2 9929 3922  
Visit: [www.energetics.com.au](http://www.energetics.com.au) <<http://www.energetics.com.au>>  
[www.envinta.com](http://www.envinta.com) <<http://www.envinta.com>>

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reliance on it, is prohibited and may be unlawful.

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International Filing Date: 20 August 1999	)	
	)	
For: GOODS/SERVICES REQUISITION	)	
AND SUPPLY SYSTEM	)	

DECLARATION OF ROBERT L. COLLINS IN SUPPORT OF PETITION  
FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTOR

I, ROBERT L. ("MICK") COLLINS, hereby declare and state as follows:

1. I am currently Chief Operating Officer and Chief Financial Officer of Imaging Technologies Pty Limited, Zoom Systems, having an address at 3175 17<sup>th</sup> Street, San Francisco, California 94110, one of the assignees of the above noted application and International Application No. PCT/AU99/00684.

2. On June 15, 2001, I sent an email to Matthew Reardon inquiring as to

Application No. 09/763,392

his intentions as to whether he was willing to sign a Declaration and Power of Attorney and Assignment for the U.S. National Phase Application No. 09/763,392, and received an email reply from him on June 14, 2001, indicating that he would not sign the Declaration and Power of Attorney and Assignment because he felt that he was owed \$20,000 by Zoom Systems. A copy of this email correspondence is attached.

3. To the best of my knowledge, the last known address of Matthew Reardon is as follows:

Mr. Matthew Reardon, Chief Financial Officer, Energetics Pty Ltd &  
EnVINTA Corporation (USA), 144 Pacific Hwy, North Sydney, NSW  
2060, AUSTRALIA

and that his mailing address is:

Mr. Matthew Reardon, Chief Financial Officer, Energetics Pty Ltd &  
EnVINTA Corporation (USA), P.O. Box 294 North Sydney, NSW 2059,  
AUSTRALIA

FROM : R L COLLINS  
Sent by: FULWIDER L.A.


FAX NO. : 17758499674  
310 824 9696;

Sep. 14 2001 07:58AM P2  
09/12/01 2:01PM; jetFax #371; Page 4/4

Application No. 09/763,392

I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 09/13/01

By:   
ROBERT L. ("MICK") COLLINS

Enclosure: Copy of email correspondence of June 14, 2001

FROM : R L COLLINS

FAX NO. : 17758499674

Sep. 10 2001 01:30PM P2

RE Power of attorney

From: Matt Reardon [ReardonM@energetics.com.au]  
Sent: Thursday, June 14, 2001 5:30 PM  
To: 'Mick Collins'  
Subject: RE: Power of attorney

Hi Mick

WITHOUT PREJUDICE

I would be happy to assign any and all intellectual property rights to Zoom Systems once they have paid my outstanding invoice for \$US20,000.

The invoice was raised pursuant to an agreement I had with Trevor Day, the then Chairman of the company, around deliverables involved with my handover of duties and responsibilities following my completion of contracted services with Zoom around July - September 1999. I held discussions with Trevor and Alan Aaron at the time with no resolution. The non payment of this money caused me significant financial hardship and distress at the time. At the time, and on several occasions since, I have advised your attorneys, Tim Staley of Griffith Hack, and Andrea Flood, that I would only release/assign intellectual property developed by me as an independent consultant when all moneys owing were paid in full.

I am sure that the current value to Zoom of these patents is far in excess of the amount previously claimed by me. However, in good faith, and to resolve this matter within your time frame, I simply propose to sell my rights to you for \$US20,000 and would be happy to promptly receive from you appropriate documentation to this effect. In the event that this matter requires some formal legal settlement process I reserve the right to claim current fair value for my intellectual property.

Should you or your legal advisors wish to discuss this matter with me, I can

FROM : R L COLLINS

FAX NO. : 17758499674

Sep. 10 2001 01:31PM P3

RE Power of attorney

be contacted during Sydney office hours on the number noted below

Sincerely

Matt Reardon  
Chief Financial Officer  
Energetics Pty Ltd & EnVINTA Corporation (USA)  
Ph: +61 2 9929 3911  
Fax: +61 2 9929 3922  
Visit: [www.energetics.com.au](http://www.energetics.com.au) <<http://www.energetics.com.au>>  
[www.envinta.com](http://www.envinta.com) <<http://www.envinta.com>>

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It is intended solely for the addressee(s). Access to this email by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any other action taken or omitted in reliance on it, is prohibited and may be unlawful.

-----Original Message-----

From: Mick Collins [SMTP:mick.collins@sfo.zoomsystems.com]

Sent: Friday, June 15, 2001 9:49

To: reardonm@energetics.com.au

Cc: Afifa Sayeed

Subject: Power of attorney

Subject: FP11525 US National Phase Application No. 0

9/763392

Goods/Services

Requisition and Supply System

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Matthew:

Can you advise me of your intentions?

Just let me know what your position is on this and I will act accordingly.

Sorry I missed you last week. Let's do it right next time.

MC  
-----

FROM : R L COLLINS

FAX NO. : 17758499674

Sep. 10 2001 01:31PM P4

RE Power of attorney

Good morning/afternoon/evening...

In the past we had problems of getting signatures of Henry Ogkraglik and Mathew Reardon on the Declaration and Power of Attorney Form and the Assignment Form which was required to be signed by all the inventors on this application.

Since then Mr Ogkraglik has signed both documents and we have those in our possession. However, Mr Reardon to date has still not signed either form.

The deadline for lodging these forms with the US Patent Office is fast approaching and his signature is required.

I have blank forms which I can forward by facsimile to your nominated contact to chase this up - can you advise me who you would like me to contact in order to forward these forms and obtain Mr Reardon's signature.

If Mr Reardon is still refusing to sign then we need to be advised of this immediately so the appropriate action can be taken.

This is very important and now has an urgency attached to it.

I look forward to hearing from you at your earliest convenience.

Regards,

DENISE TAYLOR  
P.A. to Tim Staley  
GRIFFITH HACK  
Level 8, 168 Walker Street, North Sydney, NSW, 2060

FROM : R L COLLINS

FAX NO. : 17758499674

Sep. 10 2001 01:31PM P5

RE Power of attorney

Tel: 61 2 9925 5928

Fax: 61 2 9927 6288

E-mail: denise.taylor@griffithhack.com.au

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professional privilege.

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